BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of Federal-State Joint Board on Universal Service	CC Docket No. 96-45

COMMENTS OF THE PEOPLE OF THE STATE OF CALIFORNIA AND THE CALIFORNIA PUBLIC UTILITIES COMMISSION

The People of the State of California and the California Public Utilities Commission (California or CPUC) hereby file these comments in response to the *Public Notice* (PN), released October 12, 2001, by the Federal-State Joint Board on Universal Service (Joint Board) of the Federal Communications Commission (FCC or Commission) regarding its review of Lifeline/Link-Up, two federal support programs that are used to preserve and advance universal service and to ensure that quality telecommunications and information services are available to low-income consumers at just, reasonable, and affordable rates, as required by the Telecommunications Act of 1996 (1996 Act). The Commission has set forth a number of issues in this *Public Notice* and the CPUC comments here only on some of these issues. Silence on the other issues connotes neither agreement nor disagreement with the Commission's proposals.

I. INTRODUCTION AND SUMMARY

Since 1984, the Commission, in conjunction with the states and local telephone companies, has offered a Lifeline program designed to promote universal service by providing low-income individuals with monthly discounts on the cost of receiving telephone service.[1] The Commission also established "Link-Up America," a program designed to help low-income individuals pay the initial costs of commencing telephone service.[2] In 1996, the Commission maintained the basic framework for administering the Lifeline program that existed prior to the adoption of the *Universal Service Order*. The Commission continued the basic structure for administering Lifeline/Link-Up qualification in states that provide matching support from the intrastate jurisdiction, with the criteria established by the state commission to be based solely on income or factors directly related to income.[3] In states that choose not to provide matching support from the intrastate jurisdiction, the Commission also adopted the Joint Board's recommendation to apply a specific, means-tested eligibility standard, by requiring participation in Medicaid, food stamps, Supplementary Security Income (SSI), federal

[1] *See MTS and WATS Market Structure, and Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, Recommended Decision, CC Docket Nos. 78-72 and 80-286, 49 Fed. Reg. 48325 (rel. Nov. 23,1984) (recommending the adoption of federal lifeline assistance measures); *MTS and WATS Market Structure, and Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, Decision and Order, CC Docket Nos. 78-72 and 80-286, FCC 84-637, 50 Fed. Reg. 939 (rel. Dec. 28, 1984) (adopting the Joint Board's recommendation).

[2] *MTS and WATS Market Structure, and Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, Report and Order, CC Docket Nos. 78-72 and 80-286, 2 FCC Rcd 2953 (1987), Memorandum Opinion and Order on Reconsideration, 3 FCC Rcd 4543 (1988).

[3] *Recommended Decision*, 12 FCC Rcd 87, 303 (1996).

public housing assistance (Section 8), or Low Income Home Energy Assistance Program (LIHEAP), in order for an individual to be eligible for Lifeline/Link-Up.[4]

California's Universal Lifeline Telephone Service (ULTS) program was created in 1983 in response to the enactment of the Moore Universal Telephone Service Act.[5] The purpose of the ULTS program is to provide low-income households with access to affordable basic telephone service. To achieve this purpose, telecommunications utilities providing local exchange residential service (utilities) are required to provide basic telephone service to low-income households at substantially reduced rates. Utilities are able to recover from the ULTS Fund their costs to provide ULTS, including the difference between each utility's normal tariffed rates for basic service and the discounted rates charged to customers participating in the ULTS program.[6] The ULTS program is currently funded by a surcharge on all end users' bills. The CPUC's General Order (G.O.) 153 governs the administration of the ULTS program. At the program's inception, to qualify for ULTS, a consumer had to meet a means test based on 150% of the poverty level. Since then, the ULTS income limits have been adjusted annually for inflation and so a strict percentage is no longer applicable.

Another aspect of California's ULTS program, similar to the FCC's Link-Up program, is discounted service connection and conversion charges. ULTS eligible

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[4] *Universal Service Order*, 12 FCC Rcd 8776, 8973 (1997).

[5] Pub. Util. Code section 871, et seq.

[6] CPUC General Order (G.O.) 153. Recovery is capped at the level of reimbursement of the incumbent carrier.

consumers pay the lower of $10 or 1/2 of the utility's connection or conversion charge. Conversions are defined as a change of class type or grade of service.

A. The Effectiveness of the Current Lifeline/Link-Up Program

The Joint Board seeks comment on the effectiveness of the Commission's existing Lifeline/Link-Up rules. The CPUC set an initial goal of a 95% telephone subscriber penetration rate with particular attention paid to reaching out to under-represented groups and enrolling ULTS eligible, but not yet participating residents. The 95% telephone subscriber penetration rate goal has been reached, but California continues to develop ways to achieve greater penetration, especially in ULTS subscribership. As described below, California will be implementing in 2002 a program to enhance outreach to potential ULTS subscribers.

B. Eligibility Criteria

As mentioned above, to qualify to receive Lifeline in states that do *not* provide state Lifeline support, a consumer must participate in one of the following programs: Medicaid; food stamps; Supplemental Security Income; federal public housing assistance; or Low-Income Home Energy Assistance Program. To qualify to receive Lifeline service in states that provide state Lifeline service support, a consumer must meet the criteria established by the state commission. States may choose their eligibility criteria so long as those criteria measure income or factors directly related to income.

The Joint Board seeks comment on whether the current eligibility criteria should be modified. In particular, the Commission seeks comment on whether all states should be required to include, at a minimum, the federal eligibility criteria in their respective programs or whether the Commission should adopt one national standard for purposes of eligibility. California believes that states should *not* be required to include the federal eligibility criteria in their respective programs nor should the Commission adopt a national eligibility standard. Rather, the current requirement, that a consumer must meet the criteria established by the state commission so long as it is based on income or factors directly related to income, is appropriate and should be preserved. As mentioned above, California's ULTS program is based on income. The Act clearly contemplates complementary state universal service programs, such as California's ULTS program. Section 254(f) provides that states have authority to implement universal service programs as long as they do not burden the federal program. The Act also allows latitude for states to augment the definition and expand the scope of universal service.

The Commission also invites comment on whether eligibility based on income level should be added to the existing eligibility standards as an additional means to qualify for Lifeline/Link-Up. California interprets this to mean the Commission is asking whether to relax the Lifeline/Link-Up's eligibility standard, even for states without their own state Lifeline program, so that a customer could qualify for Lifeline with an income level higher than what is required to meet the low-income assistance programs used currently. California believes that the existing eligibility standards for Lifeline/Link-Up should remain the same and eligibility based on income level should *not* be added as an additional means to qualify for Lifeline/Link-Up. California is concerned that this proposal that may be designed to make lifeline support available to all low income consumers, including those in states that do not currently participate in the program, may have little effect other than shifting the burden of supporting low income programs from the state to the federal jurisdiction. The Commission does not need to assume the entire responsibility for ensuring universal service. As stated above, the Act clearly contemplates complementary state universal service programs, such as California's ULTS program. States are in a better position to more finely tune their universal service program to match the needs of its consumers. Moreover, states that provide their own state Lifeline support, in furtherance of the Commission's goals to provide low-income households with affordable basic telephone service, should continue to have the discretion to determine its eligibility standards for its state lifeline program so long as it is based solely on income or factors directly related to income. States that use state funds to provide matching intrastate Lifeline support should have the benefit of receiving Federal Lifeline based on that state's broader lifeline eligibility criteria.

Conversely, states that do *not* participate in Lifeline, and therefore do not contribute their own state funds to provide discounted service for low-income, households, should not necessarily receive any federal Lifeline based on a broader eligibility criteria. If that state desires to receive federal Lifeline based on income it is free to implement its own state Lifeline program based on that criteria. Moreover, states that generate support from the intrastate jurisdiction have a strong interest in controlling the size of the support mechanism and have an incentive to control fraud, waste, and abuse of the support mechanism.

C. Application/Verification

The Joint Board seeks comment on whether an individual's eligibility to receive Lifeline/Link-Up support should be verified, and if so, what the federal verification measures should be. California continues to support the Commission's conclusion in the *Universal Service Order* that the history of federal-state comity in administering the Lifeline program justifies allowing states to determine whether to verify eligibility.[7] The Commission provided that states which provide matching intrastate Lifeline support should continue to have the discretion to determine the appropriateness of verification of Lifeline customers' qualification for the program. The Commission found that states that generate support from the intrastate jurisdiction have an incentive to control fraud, waste, and abuse of the support mechanism. The Commission reasoned that because states that are generating matching intrastate support have a strong interest in controlling the size of the support mechanism, the Commission did not find that imposing stricter federal verification requirements is necessary to ensure that the size of the support mechanisms remains at reasonable levels. In addition, California has previously submitted to the Commission that California allows customers to self-certify their eligibility for Lifeline because studies indicate that the cost of verifying eligibility would exceed losses resulting from fraud and abuse.[8] Moreover, as mentioned before, California's policy is to reach out to under-represented groups and enroll as many ULTS eligible residents as possible. California also has concerns that requiring verification could be detrimental to our

[7] *Universal Service Order,* 12 FCC Rcd 8776, 8975.

[8] Letter from Jack Leutza, California Public Utilities Commission, to William F. Caton, FCC, Dated January 28, 1997 (California PUC January 28 ex parte).

outreach efforts and reduce rather than enhance ULTS subscribership in California. In addition, customers are made aware at the time they self-certify for ULTS participation that the CPUC may audit and verify a customer's eligibility to participate in the ULTS program.[9]

D. Outreach

The Commission also invited comment on whether more extensive consumer education and outreach efforts are necessary to increase participation in the Lifeline/Link-Up program. In addition, the Commission also seeks comment on whether the Commission should adopt specific outreach requirements if current outreach efforts are not effectively providing Lifeline/Link-Up information to low-income customers.

The Commission has previously stated it seeks to encourage states to generate Lifeline support. California has a successful outreach program administered by the ULTS Marketing Board (ULTSMB). Two committees, the ULTS Administrative Committee and the ULTS Marketing Board administer California's ULTS program. The ULTSMB was established in 1997.[10] The ULTSMB began operations in January 1998 and in August 1998 Resolution T-16176 adopted the board's charter.

The ULTSMB currently consists of eight members, with four vacancies yet to be filled. The eight members consist of six representatives from the telephone industry and two members from Community Based Organizations. The CPUC has also appointed a CPUC staff liaison to the Board. However, in accordance with state Senate Bill (SB)

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[9] G.O. 153, 5.12.

[10] CPUC Decision No. (D.) 97-10-088.

669, enacted during the 1999 legislative session, the Commission is currently examining how California's public programs' boards and committees should be structured in the future.

The purpose of the ULTSMB is to market the ULTS program to eligible, non-participating low-income households in California. It is responsible for devising competitively neutral marketing strategies and overseeing the implementation of ULTS marketing campaigns. In 2000, $6.2 million was allocated for ULTSMB board program costs. Of that $6.2 million, $5 million was used for contracting with a public relations firm to develop interim marketing and outreach campaigns. The interim campaigns are intended to inform promote and increase the awareness of the ULTS program consistent with the goal of achieving a 95% telephone subscriber rate, particularly among qualified non-participating low-income households in the state.

Once again, in an area such as outreach, the Commission should not adopt any one-size-fits-all federal outreach requirement. States are better equipped to determine the kind of outreach which best suits the needs of their consumers, taking into consideration, for instance, the state's income levels, ethnic makeup, demographic patterns, and factors affecting low-income subscribership. Moreover, the Commission has concluded that it is important for states to retain a role in assessing and responding to low subscribership levels. In addition, because many methods exist, the Commission should not prescribe methods states must use for outreach.

II. CONCLUSION

For the reasons set forth herein, California recommends that the FCC not change the eligibility criteria for federal or state Lifeline/Link-Up. In addition, states should have the discretion to determine whether to verify eligibility. Lastly, the Commission should not adopt any one-size-fits-all federal outreach requirement.

Respectfully Submitted,

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